

STATE OF MICHIGAN
COURT OF APPEALS

In re SCHMIDT/WILLIAMS, Minors.

UNPUBLISHED
March 8, 2016

No. 327819
Livingston Circuit Court
Family Division
LC No. 12-014214-NA

Before: SERVITTO, P.J., and GADOLA and O'BRIEN, JJ.

PER CURIAM.

Respondent-appellant mother (respondent) appeals as of right the trial court's order terminating her parental rights to her three minor children, HW, IW, and HS, pursuant to MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist), (g) (failure to provide proper care or custody), and (j) (reasonable likelihood of harm). We affirm.

I. FACTS

In August 2012, the Department of Health and Human Services (DHHS) filed a petition asking the court to take protective custody of the children after respondent left them with relatives. Respondent went to Seattle, Washington, with her boyfriend, who is a heroin addict and the father of one of the children, without providing for the children's needs or indicating when she would return. At the time the children were placed in protective custody, respondent was living on the streets of Seattle, she was unemployed, and she was addicted to heroin. Respondent later entered a plea, admitting to some of the allegations in the petition, and the trial court assumed jurisdiction over the children and placed them with their grandparents.

After approximately three months of living in Seattle, respondent returned to Michigan and DHHS referred her for numerous services to address her drug abuse, mental health issues, housing, and unemployment. Respondent successfully participated in family treatment court, and in March 2014, the court returned the children to her care pursuant to the continuing protective temporary custody of the court. In June 2014, however, the court removed the children from respondent's care for a second time after she violated a court order to not allow her boyfriend in the home or to be around the children unsupervised. Respondent's participation in services thereafter was inconsistent. She missed several drug tests and tested positive for cocaine in October 2014. Respondent was also unable to reduce her methadone dosage because she said that a lower dose would cause her to relapse. Respondent moved numerous times between relatives' homes, apartments, hotels, and had difficulty staying employed. At the time

of the termination hearing in April 2015, respondent was unemployed and split her time living between a hotel and her mother's residence.

II. ANALYSIS

A. STATUTORY GROUNDS FOR TERMINATION

Respondent argues that the trial court erred when it found that the statutory grounds in MCL 712A.19b(3)(c)(i), (g), and (j) were established by clear and convincing evidence. We review a trial court's findings of fact and ultimate determination regarding the statutory termination grounds for clear error. *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013). "A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004).

"To terminate parental rights, a trial court must find by clear and convincing evidence that at least one statutory ground under MCL 712A.19b(3) has been established." *Moss*, 301 Mich App at 80. If sufficient evidence supports at least one statutory ground for termination, we need not consider any additional grounds relied on by the trial court. *In re HRC*, 286 Mich App 444, 461; 781 NW2d 105 (2009). Below, the trial court found that clear and convincing evidence supported termination of respondent's parental rights under MCL 712A.19b(3)(c)(i), (g), and (j). MCL 712A.19b(3)(c)(i) provides that termination of parental rights is appropriate if "182 or more days have elapsed since the issuance of an initial dispositional order" and "[t]he conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age."

In this case, the 182-day threshold was clearly satisfied because the trial court entered the initial dispositional order in November 2012, and the termination hearing commenced in April 2015. The conditions that led to adjudication included respondent's substance abuse, lack of income, and lack of suitable housing. Respondent received numerous services to address these issues, but the record clearly establishes that she failed to sufficiently benefit from the services; little had changed since the children were removed from respondent's care. See *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012). Respondent's lack of suitable housing was a significant issue throughout the nearly three-year period of this case. She had a history of moving between relatives' homes, apartments, and hotels. Although respondent alleged that she had been approved for government funding for a one-bedroom apartment, she presented no evidence showing when the apartment would be available, or whether she could receive a larger unit if the children were returned to her care.

Similarly, respondent's lack of employment was a significant issue throughout this case. During the proceedings, respondent worked for one year at McDonald's, then began working at Pet Ritz, but left after only a few months because she did not like the restrictions imposed on her. At the time of the termination hearing, respondent was unemployed. In addition, respondent was unable to reduce her methadone dosage, was not drug testing regularly, and tested positive for cocaine only five months before the termination hearing.

At the time of the termination hearing, the children were three, four, and six years old, and had been in protective custody for nearly three years. There is no indication that respondent could rectify her substance abuse, housing, and employment issues within a reasonable time considering the children's young ages. Accordingly, the trial court did not clearly err by concluding that MCL 712A.19b(3)(c)(i) was established by clear and convincing evidence. Because at least one statutory ground was sufficiently proven, we need not address the additional grounds relied on by the trial court. *HRC*, 286 Mich App at 461. Nonetheless, for reasons similar to those described above, we also conclude that the trial court did not clearly err by finding that termination was warranted under MCL 712A.19b(3)(g)¹ and (j).

B. BEST INTERESTS

“If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made.” MCL 712A.19b(5). A preponderance of the evidence must support that termination is in a child's best interests. *Moss*, 301 Mich App at 90. When making a best-interest determination, courts should consider a wide variety of factors, such as the bond between the child and the parent, the parent's ability to parent, the child's need for permanency and stability, the advantages of a foster home over the parent's home, the parent's compliance with his or her service plan, the parent's visitation history with the child, the child's well-being, and the possibility of adoption. *In re White*, 303 Mich App 701, 713-714; 846 NW2d 61 (2014). “[A] child's placement with relatives weighs against termination . . .” *In re Mason*, 486 Mich 142, 164; 782 NW2d 747 (2010). If a child is living with a relative when the case proceeds to termination, the trial court must “explicitly address whether termination is appropriate in light of the [child]'s placement with relatives” in rendering its best-interest determination. *In re Olive/Metts*, 297 Mich App 35, 43; 823 NW2d 144 (2012).

A preponderance of evidence supports the trial court's finding that, although respondent had a bond with her children, the children's need for safety, stability, and finality, and the advantages of placement with HS's grandparents, together with respondent's lengthy history of unemployment, lack of suitable housing, and substance abuse, meant that termination was in the children's best interests. See *Olive/Metts*, 297 Mich App at 41-42; see also *In re Jones*, 286 Mich App 126, 131; 777 NW2d 728 (2009). Accordingly, we conclude that the trial court did not clearly err by finding that termination of respondent's parental rights was in the children's best interests. MCR 3.977(K).

¹ Respondent cursorily asserts with respect to MCL 712A.19b(3)(g) that DHHS failed to make reasonable efforts to reunite the family. This argument is deemed abandoned because respondent fails to cite the record or supporting authority and fails to explain or rationalize her argument. *Houghton v Keller*, 256 Mich App 336, 339; 662 NW2d 854 (2003). Nonetheless, the record clearly establishes that DHHS provided respondent with a multitude of services over the three years in question.

Affirmed.

/s/ Deborah A. Servitto

/s/ Michael F. Gadola

/s/ Colleen A. O'Brien